

General Information Letter: Gambling losses taken as itemized deductions for federal income tax purposes may not be subtracted from adjusted gross income in computing base income.

October 3, 2001

Dear:

This is in response to your letter to Director Glen Bower dated September 24, 2001, which was forwarded to me for response. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at www.revenue.state.il.us.

In your letter you have stated the following:

In May of this year we received notice that we owed \$926.34 in additional State Income Taxes. It appears as though we were taxed on our social security income and gambling winnings, of which there were none as our losses exceeded our winnings.

We submitted by letter of June 25, 2001, certain requested information.

We received a statement dated September 9, 2001, stating the amount due is now \$585.40 and not \$926.34.

It appears the dispute is over the gambling "winnings". There were no "winnings" as is evident from the losses which exceed the "winnings."

We included the "winnings" in the gross income shown on Line 33 of the Federal Form 1040 and Line 1 of IL Form 1040. If gambling losses not in excess of the amount of winnings are not deductible then we will be paying taxes on the money used to gamble as well as the so called winnings which are not present since we only recovered what was used to gamble. Thus this would be double taxation.

Our question is this, is double taxation practiced in Illinois? If so we will pay the \$585.40.

Response

Under Section 203(a)(1) of the Illinois Income Tax Act (35 ILCS 5/203), the computation of an individual's net income subject to Illinois income tax begins with the individual's federal adjusted gross income. Adjusted gross income is income before itemized deductions and exemptions are taken into account. See Section 62 of the Internal Revenue Code. Section 203(h) of the Illinois Income Tax Act provides that:

Except as expressly provided by this Section there shall be no modifications or limitations on the amounts of income, gain, loss or deduction taken into account in

determining gross income, adjusted gross income or taxable income for federal income tax purposes for the taxable year, or in the amount of such items entering into the computation of base income and net income under this Act for such taxable year,

There is no provision in the Illinois Income Tax Act that allows gambling losses taken as itemized deductions for federal income tax purposes to be deducted for Illinois income tax purposes.

Accordingly, gambling winnings are included in the computation of Illinois net income to the extent they are included in an individual's federal adjusted gross income. Because itemized deductions are not taken into account in computing federal adjusted gross income, gambling losses cannot be taken into account in determining Illinois net income.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy General Counsel -- Income Tax